

Message Text

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ACTION AID-59

INFO OCT-01 NEA-10 ISO-00 AGRE-00 CIAE-00 COME-00
EB-08 FRB-01 INR-10 NSAE-00 ICA-20 TRSE-00 XMB-04
OPIC-06 SP-02 LAB-04 SIL-01 OMB-01 L-03 /130 W
-----107771 251456Z /50

R 251424Z AUG 78
FM AMEMBASSY CAIRO
TO SECSTATE WASHDC 3091
INFO AMCONSUL ALEXANDRIA

UNCLAS SECTION 01 OF 02 CAIRO 19780

DEPT PASS USDA/OGSM/POD

E.O. 11652: N/A
TAGS: EAGR, EAID, EG, US
SUBJECT: PILLSBURY AND TITLE I PL 480 WHEATFLOUR
CONDITION DISPUTE
REF: (A) CAIRO 15176, (B) STATE 161361

SUMMARY - DESPITE OUR EARLIER UNDERSTANDING THAT DISPUTE
BETWEEN PILLSBURY AND ESTRAM HAD BEEN SATISFACTORILY
RESOLVED, ISSUE OF RESPONSIBILITY FOR DEMURRAGE AT PORT
OF DISCHARGE REMAINS OUTSTANDING. PILLSBURY CONSIDERING
THREE OPTIONS TO RESOLVE DISPUTE AND EMBASSY INTENDS
DISCUSS FURTHER WITH ESTRAM. STATE/USDA COMMENTS AND
GUIDANCE REQUESTED. END SUMMARY.

1. AS REPORTED REFTELS, PILLSBURY REPS INDICATED TO US
HERE AND IN WASHINGTON THAT SATISFACTORY SETTLEMENT HAD
BEEN REACHED WITH GOE ON ITS TITLE I PL 480 WHEATFLOUR
CONDITION DISPUTE. NATURE OF SETTLEMENT WAS OUTLINED
REF A. AT THE TIME NEITHER GOE NOR PILLSBURY GAVE ANY
INDICATION THAT PILLSBURY, AN FAS SUPPLIER, MIGHT BE
HELD RESPONSIBLE FOR DEMURRAGE AT ALEXANDRIA, PORT OF
DESTINATION. SUBSEQUENTLY, HOWEVER, ESTRAM APPEARS TO
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HAVE MADE SUCH CLAIM.

2. THIS PAST WEEK JOHN LENKER, PILLSBURY VP, CALLED
TO BRIEF US ON STATUS OF MATTER. ESTRAM, HE INDICATED,
HAS AUTHORIZED PAYMENT TO PILLSBURY OF \$1.5 MILLION, BUT
CONTINUES TO HOLD \$200 THOUSAND PENDING SETTLEMENT OF
DISPUTED TRANSFER, FUMIGATION AND DEMURRAGE CHARGES.

PERFORMANCE BOND HAS ALSO BEEN EXTENDED. LENKER STATED THAT GOE AUTHORITY TO SETTLE MATTER HAD INITIALLY BEEN TRANSFERRED FROM ESTRAM (CAIRO) TO EGYPTIAN EMBASSY WASHINGTON (SHUKRI NAHAL), BUT IS NOW BACK TO ESTRAM BECAUSE NAHAL WAS NEVER SENT REQUISITE DOCUMENTS.

3. BETWEEN AUGUST 21 AND 24 LENKER MET ON THREE OCCASIONS WITH DARWISH, SAADANI (LEGAL COUNSELOR) AND OTHER ESTRAM OFFICIALS TO TRY TO RESOLVE MATTER. LENKER ALSO CALLED ON AMBASSADOR, DCM, ACTING AGATTACHE, AND E/C COUNSELOR TO BRIEF THEM ON SUBJECT.

4. BASED ON DISCUSSIONS WITH ESTRAM, LENKER PRESENTED FOLLOWING PROPOSAL TO ESTRAM AS BASIS FOR SETTLEMENT:

- A. EXPENSES THAT INCURRED BY M/V EVANGELISTRIA AT PORT OF BEAUMONT, TEXAS, FOR FUMIGATION IN APRIL 1978 BE RESOLVED BETWEEN PILLSBURY AND THE VESSELS OWNERS AND/OR DISPONENT OWNERS OF THE VESSEL;
- B. THAT PILLSBURY PAY ESTRAM, THROUGH ARAB FOREIGN TRADE COMPANY, THE SUM OF LE 8,500 FOR FUMIGATION AND RELATED EXPENSES INCURRED IN ALEXANDRIA FOR FLOUR DISCHARGED BY M/V EVANGELISTRIA IN JUNE 1978;
- C. THAT PILLSBURY PAY ESTRAM \$25,000 (INSTEAD OF \$140,000 DEMANDED BY ESTRAM) FOR DEMURRAGE EXPENSES INCURRED BY M/V EVANGELISTRIA. PILLSBURY'S PROPOSAL SPECIFICALLY DISCLAIMED RESPONSIBILITY FOR INFESTATION

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FOUND ABOARD M/V EVANGELISTRIA, NOR DID IT FORFEIT ITS RIGHT TO JOIN OWNERS AND/OR DISPONENT OWNERS OF THE VESSEL FOR RECOVERY OF AFOREMENTIONED EXPENSES.

5. FOLLOWING FINAL MEETING WITH ESTRAM REPS, LENKER INFORMED US THAT FIRST TWO POINTS ACCEPTABLE TO EGYPTIAN SIDE. ESTRAM UNWILLING, HOWEVER, TO ACCEPT PROPOSED DEMURRAGE PAYMENT AND INSISTED NO LESS THAN \$80,000 SHOULD BE PAID ON THIS POINT. ARAB FOREIGN TRADE COMPANY REP, WHO IS PILLSBURY REPRESENTATIVE IN EGYPT, SUBSEQUENTLY SUGGESTED TO ESTRAM OFFICES THAT PILLSBURY MIGHT CONSIDER \$40,000 FOR DEMURRAGE CLAIM, BUT ESTRAM REFUSED.

6. IN OUTLINING STALEMATE TO ACTING AGATTACHE AND E/C COUNSELOR, LENKER OUTLINED THREE OPTIONS WHICH PILLSBURY WILL NOW BE CONSIDERING:

- A. FIRST OPTION: THE THREE-POINT PROPOSAL DESCRIBED ABOVE WITH DEMURRAGE PAYMENTS IN THE RANGE OF \$25,000 TO \$40,000.
- B. SECOND OPTION: PILLSBURY WOULD ISSUE LETTER OF GUARANTEE TO ESTRAM FOR \$125,000 AND ESTRAM WOULD TURN

OVER AUTHORITY TO ARBITRATE DEMURRAGE CHARGES WITH VESSEL OWNERS. THIS OPTION INVOLVES ESTRAM AND PILLSBURY MAKING DETERMINATION AS TO HOW MUCH OF DOLLARS 125,000 DEMURRAGE CHARGES ARE DUE TO NORMAL DELAYS ASSOCIATED WITH PORT CONGESTION AND WHAT PART DUE TO DELAYS CAUSED BY GOE HEALTH OFFICIALS TO DETERMINE CONDITION OF WHEAT FLOUR. ESTRAM WOULD BE RESPONSIBLE FOR THE QUOTE NORMAL UNQUOTE DEMURRAGE CHARGES AND LETTER OF GUARANTEE WOULD BE REDUCED BY THAT AMOUNT. PILLSBURY WOULD THEN GO TO ARBITRATION WITH VESSEL OWNERS OVER REMAINING DEMURRAGE CHARGES ASSOCIATED WITH CONDITION OF FLOUR.

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TO SECSTATE WASHDC 3092
INFO AMCONSUL ALEXANDRIA

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C. THIRD OPTION: LEAST DESIRABLE ACCORDING TO LENKER, IS TO GO TO ARBITRATION WITH ESTRAM OVER \$200,000 STILL BEING HELD BY ESTRAM. LENKER SAID HE WANTED TO CONSULT WITH PILLSBURY OFFICIALS IN MINNEAPOLIS BEFORE MAKING DECISION ON FUTURE COURSE OF ACTION. HE EXPRESSED HOPE THAT MEANTIME EMBASSY MIGHT BE ABLE PERSUADE GOE TO SETTLE MATTER.

7. ACTING AGATTACHE AND E/C COUNSELOR PLAN TO MEET WITH DARWISH OF ESTRAM ABOUT SUBJECT AND URGE THAT ESTRAM AND PILLSBURY DO UTMOST REACH A MUTUALLY AGREEABLE SETTLEMENT ASAP. IF NO PROGRESS EVIDENT, EMBASSY WILL EVALUATE APPROPRIATE ALTERNATIVES, INCLUDING POSSIBILITY OF MAKING REPRESENTATION TO MINISTER OF SUPPLY.

8. IF USDA OR STATE HAVE ANY ADDITIONAL INFO ON

DESPUTE THAT MIGHT BE HELPFUL TO US, PLEASE ADVISE.

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